

Department of Behavioral and Developmental Services

Division of Mental Retardation Service

Reportable Events Procedures:

Reporting, Recording, Investigation, and Quality Assurance/Quality Improvement

A. Responsibilities of Provider Agency and Individuals Providing Services

1. Any provider of services to persons with mental retardation or autism who is licensed, funded, or regulated in whole or in part, by the Department of Behavioral and Developmental Services (“BDS”) shall develop written incident/abuse reporting policies and procedures. This is a requirement of all BDS contracts and service agreements. These policies and procedures will assure:
 - Reporting, recording, investigation, monitoring and training occur.
 - Identification of reporting responsibilities of employees, interns, volunteers, consultants, contractors, and family care providers.
2. Agency policies and procedures shall be subject to review and approval by the regional office of BDS and shall be in compliance with BDS Reportable Events policy and these procedures. Copies of agency policies must be submitted within six months of implementation of the Department’s Reportable Events Policy. Within 30 days of filing, the APS unit will review the agency policy for sufficiency and consistency and notify the agency of its approval or need for revision. Thereafter the policy must be submitted as part of the service agreement.
3. Policies/procedures shall be made known to all persons receiving services including their families/guardians, or correspondents, advocates, as well as all agency employees, interns, or volunteers. Copies of these agency policies/procedures must be provided to interested individuals upon request.

All agency employees, interns or volunteers will read the agency policy on Reportable Events and acknowledge their reading of it in writing. The agency will retain the written acknowledgement in agency files.

4. The agency will train all new employees in reportable events policy and procedure in the early part of new employee orientation but no later than 60 days after commencing employment. All employees must receive refresher training no less than every two years. The agency must keep records of staff training.
5. Any agency with 25 or more employees must have at least one approved investigator employed by their agency. The role of the approved investigator must be incorporated into the agency's personnel rules, policies, and/or procedures. Investigations conducted with the assistance of an agency investigator must conform to accepted procedures and be consistent with APS and Reportable Events policies as well as these procedures. Copies of the agency's written policy and/or procedure must be provided to the APS Manager within six months of the implementation of the Department's Reportable Events Policy pursuant to section A 2.
6. The agency administrator (or designee) shall be advised of all reportable incidents within one business day of their occurrence or discovery. Any serious reportable incident, or any allegation of abuse, exploitation or neglect, and any rights violation, shall be reported immediately to the agency administrator or designee and to BDS.
7. All events reportable under this policy must be reported to the BDS Regional Office in the geographical region where the event occurred during normal business hours. Regional Office phone and fax numbers are:

Portland	822-0270	or	1 800 269-5208,	fax 822-0295
Augusta	287-2205	or	1 800 232-0944,	fax 287-7186
Lewiston	753-9100	or	1 800 866-1803,	fax 782-1753
Thomaston	596-2300	or	1 800 704-8999,	fax 596-2304
Bangor	941-4360	or	1 800 963-9491,	fax 941-4389
Presque Isle	554-2100	or	1 800 767-9857,	fax 764-2001

Incidents that occur during non-business hours must be reported to Mental Retardation Crisis Services which can be accessed at 1-888-568-1112.

- a.) The following must be reported **immediately**:
 - Allegations of abuse, exploitation, or neglect of a person
 - Death
 - Serious Illness or Injury
 - Rights violations
 - Lost or Missing Person
 - Assaults
 - Suicide attempt or threats
 - Dangerous situations which pose an imminent risk of harm

b.) All other events must be reported within one business day, unless the event requires an immediate response by the Department (such as immediate action by Crisis Service staff), or the law requires immediate reporting. The reports may be made by telephone or fax. These events include (but are not limited to) the following:

- Assaults which do not require medical attention
- Medication errors/refusals
- Failure to obtain consent to changes or new medical orders for persons under public guardianship when no emergency exists
- Non emergency dangerous situations
- Restraints (submit restraint orders within 48 hours)
- Mechanical devices and supports used without a doctor's order or without supervision of a qualified professional
- Self-injurious behavior not addressed and tracked in the person's plan

8. Follow up Documentation: Whenever an initial report has been made by telephone to BDS, a Reportable Events form must be completed and sent to BDS by mail or fax as soon as possible but no later than within 2 business days of the event.

B. Procedures for Recording and Referral of Reportable Events by BDS

1. A BDS staff person will be assigned to each regional office to receive all reportable events and record them in the reportable events data system.
2. Once the event is logged it will automatically go to the Adult Protective Unit (both the regional APS investigator and the APS Manager) and as well as to the assigned ISC. Additionally, all rights violations and adult protective allegations will automatically go to the Office of Advocacy which will use its own discretion with regard to situations or events that it chooses to investigate.
3. Adult Protective Services will assign an APS investigator to all APS cases even when tasks are delegated to an agency investigator. APS will request the assistance of an agency investigator after considering the following:
 - Immediacy and severity of threat or harm
 - Level of seriousness of the allegation
 - Availability of other protective resources
 - An agencies' previous experience with and performance of investigative tasks
4. If a reportable event appears to fall within the jurisdiction of another agency, the APS Unit shall make referrals to one or more of the following as appropriate:
 - District Attorney, Law Enforcement Agency, and Healthcare Crimes Unit. The District Attorney, law enforcement agency or Healthcare Crimes Unit

may be consulted prior to or during an investigation to determine respective responsibilities in the conduct of the investigation, including responsibility for interviewing the alleged perpetrator.

- Professional and Occupational Licensing Boards. The APS Unit may make referrals to professional and occupational licensing boards regarding a person alleged to have engaged in any unlawful activity or professional misconduct, or conduct in violation of laws or rules relating to a licensing board. Mandated reporters who fail to report will be reported to the appropriate licensing board. Any such report, along with any release of information necessary to make the report, must be approved by the Director of Legal Services or an Assistant Attorney General prior to making the referral.

C. Agency Involvement in APS and Office of Advocacy Investigations

Investigations may be conducted with the assistance of agency employed approved investigators when such assistance is requested by the APS Unit or the Office of Advocacy. Expectations for approved investigators include, but are not limited to, being able to address conflicts of interest, establish the purpose of the investigation, interviewing techniques, gathering evidence, weighing credibility and reporting findings and conclusions. Investigations may include face-to-face interviews, review of pertinent written records (including medical/dental or physical or mental health records), and interviews with collateral witnesses, agency personnel, family or friends. Interviews will be conducted in such fashion as to elicit clear factual information.

All results of investigations must be documented in a uniform way, which should include, at a minimum, a statement of the facts, or allegations contained in the initial report; who was interviewed, the results of the interviews; what records were reviewed, an evaluation of the facts, conclusions and recommendations. All written reports, whether created by the APS Unit, the Office of Advocacy or an Approved Agency Investigator, must be sent to BDS, which will review and retain them. All final findings and recommendations are the responsibility of the APS Unit or the Office of Advocacy, as appropriate. Written reports of APS investigations must be completed by the APS Unit within 30 days of receipt of a referral, unless an extension is requested in writing by the investigator and granted by the APS Manager. Written reports of Office of Advocacy investigations must be completed by an advocate within 30 days of receipt of a referral, unless an extension is requested in writing by the advocate and granted by the Chief Advocate.

Any actions taken as a result of the investigation (e.g. legal proceedings initiated, administrative or disciplinary action taken) shall also be recorded. Guardians, correspondents and the individuals involved are to be notified of the findings of all investigations consistent with 34-B MRSA §1207 and other laws and regulations governing confidentiality.

Any written reports completed by the APS Unit or the Office of Advocacy will be provided to the Provider agency involved in the investigation. The written report will also be promptly provided to the Commissioner, guardian (except when the guardian is subject of an investigation), ISC, BDS Regional Office, Office of Advocacy and Consumer Advisory Board.

All recommendations resulting from APS or Office of Advocacy investigations must be reviewed by agencies which are subject to an investigatory report and each recommendation must be responded to by the agency within 30 days of receipt of the report.

All documents created and maintained by or under the direction of the APS unit or the Office of Advocacy in compliance with this policy are records of the Department of Behavioral and Developmental Services.

D. Qualifications & Training

Approval of agency investigators to conduct investigations will be in accordance with BDS policy. To be approved, an investigator must:

1. Be nominated by the Executive Director of the agency where employed based on a record of mature and responsible decision making and respect for others.
2. Submit an application to the APS Manager in a form prescribed by BDS.
3. Have no criminal record and allow BDS to request a criminal background check with the State Bureau of Identification of the Maine State Police.
4. Submit proof of a post secondary degree (2 or 4 year), or have 4 years of progressive responsibility with demonstrated skill in sorting through complex issues, protecting consumers and writing effectively.
5. Be 21 years of age or older.
6. Sign a release of information form allowing BDS to request a Child Protective Records search,
7. Receive a response from DHS Child Protective Services indicating that you have "not been involved in a substantiated child protection case."
8. Successfully complete the course titled "Conducting Serious Incident Investigations."
9. Satisfactorily assist with one or more investigations.

The APS Manager will notify the applicant of preliminary approval within 30 days of receipt of all required information and of final approval within 30 days after satisfactory assistance in one or more investigations (including satisfactory completion of written findings). After initial approval the agency investigator must continue to secure additional training in reportable events, behavior regulations, and investigations within two-year cycles. The approval as an agency investigator must be reviewed and renewed every two years by the APS Manager.

E. Agency Review & Disposition of APS Investigations, Office of Advocacy Investigations and Administrative Reviews

1. Every agency shall have an internal mechanism in place to review and monitor reportable incidents investigated by the APS Unit, Office of Advocacy or reviewed by the agency. The agency's organizational structure and its own policies shall determine the most appropriate mechanism to fairly and objectively review and monitor these incidents and to direct any corrective action needed. For events not investigated by the APS Unit or the Office of Advocacy, the agency must conduct a review and provide a written explanation to the APS unit within 30 days of the initial event. The written explanation may be provided with the initial report of the event if sufficient information is available within the time permitted to make the initial report to the APS Unit.
2. The mechanism for review must be able to provide, at a minimum, the following elements:
 - Ascertain whether or not reportable incidents investigated by the agency were reported, managed, investigated and documented consistent with the provisions of BDS Reportable Events policy as well as agency policies and procedures.
 - Ensure that necessary corrective, preventive and/or disciplinary action have been taken to protect persons receiving services from further harm and to safeguard against the recurrence of similar incidents, and to make written recommendations to the agency administrator to correct, improve or eliminate inconsistencies.
 - Ascertain whether or not further investigation, corrective, preventive and/or disciplinary action is necessary, and, if so, to make appropriate written recommendations to the agency administrator.
3. On a semi-annual basis, based on a schedule and printouts of the agency's reportable events (provided by BDS) (see pages 7 and 8, Item G. 1.), the agency must prepare a report titled *Provider Agency Quality Assurance Review of Reportable Events* which addresses trends and outcomes involving individuals served by the agency, including those events investigated by the Adult Protective Unit of BDS, the Office of Advocacy and/or law enforcement personnel. The agency should be looking for patterns such as:
 - the same things happening to the same individual(s) over a period of time
 - different things happening to the same person over a period of time
 - the same things happening across groups over a period of time
 - involvement of the same staff
 - clusters of incidents
 - variations from the norm

- low reporting rates
 - high occurrence by type
 - impact of changes on subsequent rate of events
 - variables that impact on incidents
 - significant trends or changes that warrant systemic corrective/preventive action.
4. Such reports are to be forwarded by the agency to the APS Manager for review within 30 days of receipt of notification by BDS. The APS Manager will forward these reports to the MR Quality Assurance Manager and Regional QA staff for further review (see page 8, Item G. 2.).

F. APS Review

1. On a quarterly basis, the APS Manager will issue a report identifying:
 - the number of referrals received by APS
 - the nature of the allegations received
 - the number of cases opened for investigation
 - the number of investigations completed
 - the number and type of allegations substantiated, unsubstantiated, or unable to determine
 - the number of recommendations accepted and implemented by agencies
 - the number of recommendations outstanding
 - patterns of repetition within recommendations (which may have agency specific or systemic implications)
2. The APS quarterly report will be sent to the Commissioner, the Director of the Office of Legal Affairs, the Director of Adult Mental Retardation Services, the Quality Assurance Manager for Mental Retardation, the Director of the Department's Quality Assurance/Quality Improvement Program, Regional MR Team Leaders, Provider Agencies and Presidents of their Boards, the Consumer Advisory Board, and the Office of Advocacy.

G. Quality Assurance/Quality Improvement Review

1. On a quarterly basis, the BDS Quality Assurance Coordinators shall provide each agency with the following information:
 - aggregate incidents per quarter by individual
 - aggregate incidents per quarter by site
 - summary comparisons to the prior four quarters (once sufficient data exists)

- increases and decreases in numbers of incidents from the previous quarter and the previous year by individual and location (once sufficient data exists)
 - increases and decreases in types of incidents from the previous quarter and the previous year by individual and location (once sufficient data exists)
2. BDS Regional Quality Assurance Coordinators will meet with Regional Team Leaders and regional management quarterly to review agency reports. This review will consider the appropriateness of each agency's actions, including actions taken regarding any recommendation from the Adult Protective Services Unit resulting from an investigation. BDS Regional QA Coordinators will also review agency reports for any patterns, trends, or individual incidents that may have systemic implications. Each quarter, regional QA staff will provide a written report including findings and recommendations to the MR Quality Assurance Manager, MR Regional Team Leaders, the Director of Adult Mental Retardation Services and to the Director of the Office of Advocacy and Adult Protective Services. In addition, provider agencies will receive information specific to their agency, also including information regarding regional trends.
 3. BDS QA Coordinators will prepare an annual report of regional trends, with findings and recommendations, based on a compilation of information from the regional quarterly reports. Regional QA staff will provide a written report to the MR Quality Assurance Manager, MR Regional Team Leaders, the Director of Adult Mental Retardation Services and to the Director of the Office of Advocacy and Adult Protective Services. In addition, provider agencies will receive information specific to their agency, also including information regarding statewide trends.
 4. On an annual basis, the BDS Quality Assurance Manager will review the APS quarterly reports, the regional QA reports, the semi-annual *Provider Agency Quality Assurance Reviews of Reportable Events* and prepare and disseminate an annual *Reportable Events Quality Assurance Report* of all filed reportable events statewide, including:
 - the number and rate of reportable event incidents by type of incident,
 - the number and rate by type and severity of injury,
 - the number of individuals served,
 - the number and rate by provider agency.
 5. The annual *Reportable Events Quality Assurance Report* will include a review of aggregated information for trends and patterns that may demonstrate improvements that have occurred in the system as well as: training needs, supervisory needs, administrative needs, resource needs,

and client needs related to the system of care for people with mental retardation and autism. The Report shall make specific findings of demonstrated needs and recommendations for change, at both the provider specific level and a statewide systemic level, including, but not limited to administrative, procedural, budgetary, legislative or regulatory changes. .

6. The annual *Reportable Events Quality Assurance Report* will be distributed to the Commissioner, the Director of the Office of Legal Affairs, the Director of the Adult Mental Retardation Services Program, the Director of the Department's Quality Assurance/Quality Improvement Program, Regional MR Team Leaders, the President of provider agency Boards of Directors, the Executive Director of provider agencies, the Consumer Advisory Board, the Office of Advocacy and Adult Protective Services and to anyone requesting of a copy of this report. It will also be posted on the BDS web site.
7. The annual *Reportable Events Quality Assurance Report* will be incorporated as part of a comprehensive annual Mental Retardation Quality Assurance/Quality Improvement report which will address additional outcomes: Inclusion, Health and Safety, Unmet Needs, Compliance and Management Goals (System Effectiveness and Efficiency).